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WORKING SESSION MEMORANDUM

DATE: January 6, 2012

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning
Seth Zeren, Chief Zoning Code Official 

RE: #400-11: Ald. Gentile, Harney, Sangiolo requesting establishment of a Business 5/Riverside Zone: a mixed-use transit-oriented district at the site of the current Riverside MBTA rail station. The proposed new zone shall allow by special permit a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center.

MEETING DATE: January 9, 2012

CC: Board of Alderman
Planning and Development Board
Donnalyn Kahn, City Solicitor

INTRODUCTION

The request before the Board of Aldermen is to create a zone that enables the development of the Riverside MBTA station (referred to generally as Riverside). This 22-acre site, which includes a transit station, bus stop, and large parking lot, is cited in the City's *Comprehensive Plan* as a favorable site for mixed-use, transit-oriented development. The property is currently zoned for Public Use and, since no other existing zoning designation will facilitate the integrated mixed-use development deemed appropriate for this site, a new zoning text must be created. The crafting of a new zone provides an opportunity to shape development that is site-specific, that incorporates specific dimensional controls and requirements for impact mitigation, open space, and mixed uses, which has both lower impacts on the community and greater benefits for the City as a whole.

Process

Development of the Riverside site will require two sets of aldermanic committee reviews: first by the Zoning and Planning Committee and thereafter by the Land Use Committee. The Zoning and Planning Committee is charged with considering text changes to the City's Zoning Ordinance and making recommendations to the full Board, which takes final action. Once a zoning text is crafted and approved by the full Board, a prospective developer can submit a request to rezone the specific site (in this case, Riverside MBTA Station site) along with an application for a special permit for a specific development. Special permits and map changes are considered separately by the Land Use Committee, again with final approval resting with the full Board of Aldermen. If approved, the City's zoning map will be changed to the new zone and the developer then can apply for a building permit and begin construction. The Planning and Development Board advises the Board of Aldermen on zoning amendment matters and it has been the practice for the Planning and Development Board to hold public hearings concurrent with the Board Committees and to make its recommendations in advance of Board action.

BACKGROUND

The Riverside site is located adjacent to the terminus station for the MBTA Green Line, a bus terminal, and a 960-space commuter-oriented parking lot. To the northwest is the Charles River, and Route 128 is to the southwest. Grove Street, a designated scenic road borders the site on the southeasterly side, and the MBTA tracks define its northeast side. Both the 2007 *Newton Comprehensive Plan* and the 2011 *Mixed-Use Centers Element* advocate for the creation of a mixed-use development at the Riverside MBTA station which embraces excellence in placemaking. Riverside is viewed by many as an important site for economic development with the potential to create new jobs, provide housing for seniors and young families, improve public facilities, and generate new tax revenue. It is also important to note that a development that fills the City's coffers, but saddles the community with adverse impacts is unwelcome and creating a balance among the wants and needs of the City as a whole is paramount.

The Planning Department considered many factors in analyzing the options for development and zoning of the site. Staff reviewed the recommendations of the 2007 *Newton Comprehensive Plan* and, in particular, the 2011 *Mixed-Use Centers Element*; revisited the input received in previous meetings with the community and the developer; and, finally, evaluated various zoning approaches as described in this report.

COMPREHENSIVE PLAN/MIXED-USE CENTERS ELEMENT

The *Mixed-Use Centers Element*, adopted in the fall of 2011, calls for a number of changes to the Zoning Ordinance and to Planning Department procedures to support improved mixed-use development in the future. The *Element* advocates for taking the best lessons from Newton's successful village centers and applying them to new mixed-use developments to create excellent

places integrated with and appropriately scaled to their surroundings. It favors regulation of impacts and mitigation of those impacts in land use decisions. It also stresses the desire for collaboration between City officials, the community, and the developer, as well as the use of metrics of expected impacts and establishment of thresholds for impacts to provide developers with clarity and certainty and to assure the community that the effects of development will do no harm. The main areas where impact metrics are recommended are: design, traffic generation, school enrollment, and fiscal impacts. As recommended by the *Element*, Planning staff is currently developing such impact models. In the event that the mitigations fall short of expectations, various measures can be required of the developer including a change in the mix of uses, additional traffic improvements, or a revised site plan. This approach is largely performance-based and described in more detail in Section III.

ZONING OPTIONS

While a developer may desire more flexibility in the design, uses, and phasing of development to make sure it is financially feasible, the community often expresses a desire for more predictability about the potential impacts on local roads, on schools, on the appearance of the area, and on City finances. The Planning Department analyzed a myriad of zoning approaches to determine which could be implemented to best balance all of these needs.

I. Base Zone vs . Overlay Zone

A **base zone** is a common fundamental means to control land use control. Each of Newton's existing districts (SR-2; BU-1; MU-1, etc.) is a base zone. Base zones generally contain the following elements:

- Uses that are allowed by right
- Uses that are allowed conditionally by special permit
- Development standards, such as dimensional, density standards, and setbacks

An **overlay zone** is a set of standards applied to an area on top of a base zone. An overlay typically modifies specific features of the underlying zone in one or a few small ways, while leaving most provisions of the base zone intact. For example, the historic districts are considered overlay zones; the core character of the base zone applies, but physical changes to structures within the designated district (with some minor exceptions) are subject to review by the District Commission, whereas structures in similarly-zoned areas outside of the District are not subject to such review.

II. General vs. Specific Zones

Municipalities typically use a relatively small number of zoning districts with general criteria to regulate land use. For example, in Newton, three single-family districts are used to regulate tens of square miles of land which vary in their age of development, architectural character, topography, lot size, and proximity to village centers. These broadly-applied zoning districts can control a lot of land with a few common sets of rules. A new zoning district that could be applied on the Riverside site could be written broadly enough to be applicable for future development sites in village centers or other commercial areas as well. Alternatively, some

municipalities have created zones with unique site-specific standards to create new neighborhoods or large mixed-use developments. These zones can be clearly named for the area they are intended to regulate and can contain specific rules that address particular concerns of the community more succinctly than a regulation applied widely in a City.

III. Performance Zoning and Contextual Standards vs. Set Dimensional Standards.

As previously noted, performance zoning requires both the measurement of the expected impacts a proposed project will have on the community and implementation of efforts to mitigate these impacts. With exception of portions of the PMBD (described below), the Newton Zoning Ordinance (NZO) does not include such specific performance zoning elements. Instead, the NZO relies upon set dimensional standards (i.e. setbacks, lot coverage, and open space) that are the same for each parcel within a particular zone regardless of where a lot is located or how development on that site may impact abutting properties. If a property owner proposes a project that meets the dimensional standards required for the zone in which that parcel is located, he or she can build the project as of right. The Board of Aldermen may allow exceptions to these standards through approval of a special permit for a project. However, a special permit can only be approved if the Board finds that the proposal meets certain criteria (generally found in Section 30-24(d) of the NZO). These criteria are very general in nature.

With performance zoning methods, site-specific criteria are used to more directly monitor project impacts. Some impacts, such as traffic or school enrollment are more easily dealt with by the performance zoning approach above. Other types of impacts, particularly those of design, building mass and form, are harder to measure or mitigate. One method of addressing these design impacts is to incorporate contextual design standards into a zone. These standards would allow certain features on a particular site, such as building height and floor area ratio, depending upon the dimensions of other structures that surround it. The NZO already includes a few provisions along these lines. For example, averaging of front setbacks based on the setbacks of structures existing on either side are allowed by Section 30-15(d)) and limiting the height of a structure relative to the height nearby buildings is established in the PMBD (see below). These contextual standards are particularly relevant where a zone may be applied in various areas of the City. In each area, the contextual standards would change, ensuring that new construction is compatible with that of its immediate neighbors.

- IV. Planned Multi-Use Business District. The City's Planned Multi-Use Business District (PMBD), which was adopted by the Board in December 2007, is an example of both an overlay and performance-based zone. This zoning designation was intended to guide development of mixed-use development in conjunction with an underlying Business 4 base zone. The overlay focused on impacts, both positive and negative, that the project would have on the City's various resources (i.e. public facilities, utilities, housing options, public transportation, open space, pedestrian amenities and compatibility and integration with the community) and how these impacts would be mitigated if necessary. This overlay applies to sites in the City with frontage on a major arterial roadway and, therefore, would not be applicable at the Riverside site. However, many of the Board members who participated in the Mixed-Use Element workshop last year, noted the value of the work that had been done and urged that the best

features of this overlay be reconsidered for future mixed-use sites, particularly if there are incentives to encourage developers to use it.

SUMMARY

Over the last two years, developers BH Normandy, LLC have presented several visions of what a redeveloped site could look like and any of the zoning mechanisms mentioned in this report could be used to achieve a desired outcome. Petition #400-11 introduces one such set of parameters, which are prescriptive in nature: *a single commercial office building not to exceed 225,000 square feet with a maximum height of 9 stories, two residential buildings not to exceed 290 housing units in total, retail space not to exceed 20,000 square feet, along with a multi-use community center.* However, these parameters reflect neighborhood concerns about impacts on the surrounding area and, as suggested by the *Mixed-Use Element*, impact thresholds could be established that would allow design flexibility within the site, but would result in no greater impacts than those that would be generated by those described in the docket language. If the ultimate goal is to create a low-impact development at Riverside that integrates a mix of uses and creates a vibrant transit-oriented, community-focused destination, such flexibility in the site development features could be beneficial provided the impacts are controlled. The options outlined in this memo lay the groundwork for creating mechanisms to measure project impacts, set thresholds, and ensure that our community is both enhanced and protected.

RECOMMENDED ACTION AND NEXT STEPS

After reviewing these zoning approaches with the Committee, Planning staff will present three zoning texts. Each of these represents an example of different zoning approach including: 1) a base zone reliant on dimensional controls, 2) the PMBD, which is an example of an overlay zone over a BU4 zone; and 3) a base zone with performance standards, which combines features of the two. These will be reviewed in greater detail at the Committee's next meeting on January 23rd. Due to the high level of public interest in the redevelopment of this site, a community meeting will be held on February 2nd in the Board Chamber to hear public comments that may inform the continued work of the Committee and staff.

ATTACHMENT A: AREA MAP

